

Vocational high school students. Students who work on "co-op" jobs in private industry as a part of a school's regular course of classroom and practical training are considered full-time students.

Permanently and totally disabled. Your child is permanently and totally disabled if both of the following apply:

- He or she cannot engage in any substantial gainful activity because of a physical or mental condition.
- A doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death.

Residency Test

To meet this test, your child must have lived with you for more than half of the year. There are exceptions for temporary absences; children who were born or died during the year, kidnapped children, and children of divorced or separated parents.

Temporary absences. Your child is considered to have lived with you during periods of time when one of you, or both, are temporarily absent due to special circumstances such as:

- Illness,
- Education,
- Business,
- Vacation, or
- Military service.

Death or birth of child. A child who was born or died during the year is treated as having lived with you all year if your home was the child's home the entire time he or she was alive during the year. The same is true if the child lived with you all year except for any required hospital stay following birth.

Child born alive. You may be able to claim an exemption for a child who was born alive during the year, even if the child lived only for a moment. State or local law must treat the child as having been born alive. There must be proof of a live birth shown by an official document, such as a birth certificate. The child must be your qualifying child or qualifying relative, and all the other tests to claim an exemption for a dependent must be met.

Stillborn child. You cannot claim an exemption for a stillborn child.

Kidnapped child. You can treat your child as meeting the residency test even if the child has been kidnapped, but both of the following statements must be true.

1. The child is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of your family or the child's family.
2. In the year the kidnapping occurred, the child lived with you for more than half of the part of the year before the date of the kidnapping.

This treatment applies for all years until the child is returned. However, the last year this treatment can apply is the earlier of:

1. The year there is a determination that the child is dead, or
2. The year the child would have reached age 18.

Children of divorced or separated parents or parents who live apart. In most cases, because of the residency test, a child of divorced or separated parents is the qualifying child of the custodial parent. However, the child will be treated as the qualifying child of the noncustodial parent if all four of the following statements are true.

1. The parents:
 - a. Are divorced or legally separated under a decree of divorce or separate maintenance,
 - b. Are separated under a written separation agreement, or
 - c. Lived apart at all times during the last 6 months of the year, whether or not they are or were married.
2. The child received over half of his or her support for the year from the parents.
3. The child is in the custody of one or both parents for more than half of the year.
4. Either of the following statements is true.
 - a. The custodial parent signs a written declaration, discussed later, that he or she will not claim the child as a dependent for the year, and the noncustodial parent attaches this written declaration to his or her return. (If the decree or agreement went into effect after 1984 and before 2009, see Post-1984 and pre-2009 divorce decree or separation agreement, later. If the decree or agreement went into effect after 2008, see Post-2008 divorce decree or separation agreement, later.)
 - b. A pre-1985 decree of divorce or separate maintenance or written separation agreement that applies to 2009 states that the noncustodial parent can claim the child as a dependent, the decree or agreement was not changed after 1984 to say the noncustodial parent cannot claim the child as a dependent, and the noncustodial parent provides at least \$600 for the child's support during the year.

Custodial parent and noncustodial parent. The custodial parent is the parent with whom the child lived for the greater number of nights during the year. The other parent is the noncustodial parent.

If the parents divorced or separated during the year and the child lived with both parents before the separation, the custodial parent is the one with whom the child lived for the greater number of nights during the rest of the year.

A child is treated as living with a parent for a night if the child sleeps:

- At that parent's home, whether or not the parent is present, or
- In the company of the parent, when the child does not sleep at a parent's home (for example, the parent and child are on vacation together).

Equal number of nights. If the child lived with each parent for an equal number of nights during the year, the custodial parent is the parent with the higher adjusted gross income.

December 31. The night of December 31 is treated as part of the year in which it begins. For example, December 31, 2009, is treated as part of 2009.

Emancipated child. If a child is emancipated under state law, the child is treated as not living with either parent. See Examples 5 and 6.

Absences. If a child was not with either parent on a particular night (because, for example, the child was staying at a friend's house), the child is treated as living with the parent with whom the child normally would have lived for that night, except for the absence. But if it cannot be determined with which parent the child normally would have lived or if the child would not have lived with either parent that night, the child is treated as not living with either parent that night.

Parent works at night. If, due to a parent's nighttime work schedule, a child lives for a greater number of days but not nights with the parent who works at night, that parent is treated as the custodial parent. On a school day, the child is treated as living at the primary residence registered with the school.

Example 1 – child lived with one parent greater number of nights. You and your child's other parent are divorced. In 2009, your child lived with you 210 nights and with the other parent 155 nights. You are the custodial parent.

Example 2 – child is away at camp. In 2009, your daughter lives with each parent for alternate weeks. In the summer, she spends 6 weeks at summer camp. During the time she is at camp, she is treated as living with you for 3 weeks and with her other parent, your ex-spouse, for 3 weeks because this is how long she would have lived with each parent if she had not attended summer camp.

Example 3 – child lived same number of days with each parent. Your son lived with you 180 nights during the year and lived the same number of nights with his other parent, your ex-spouse. Your adjusted gross income is \$40,000. Your ex-spouse's adjusted gross income is \$25,000. You are treated as your son's custodial parent because you have the higher adjusted gross income.

Example 4 – child is at parent's home but with other parent. Your son normally lives with you during the week and with his other parent, your ex-spouse, every other weekend. You become ill and are hospitalized. The other parent lives in your home with your son for 10 consecutive days while you are in the hospital. Your son is treated as living with you during this

10-day period because he was living in your home.

Example 5 – child emancipated in May. When your son turned age 18 in May 2009, he became emancipated under the law of the state where he lives. As a result, he is not considered in the custody of his parents for more than half of the year. The special rule for children of divorced or separated parents does not apply.

Example 6 – child emancipated in August. Your daughter lives with you from January 1, 2009, until May 31, 2009, and lives with her other parent, your ex-spouse, from June 1, 2009, through the end of the year. She turns 18 and is emancipated under state law on August 1, 2009. Because she is treated as not living with either parent beginning on August 1, she is treated as living with you the greater number of nights in 2009. You are the custodial parent.

Written declaration. The custodial parent may use either Form 8332 or a similar statement (containing the same information required by the form) to make the written declaration to release the exemption to the noncustodial parent. The noncustodial parent must attach the form or statement to his or her tax return.

The exemption can be released for 1 year, for a number of specified years (for example, alternate years), or for all future years, as specified in the declaration. If the exemption is released for more than 1 year, the original release must be attached to the return of the noncustodial parent for the first year, and a copy must be attached for each later year.

Post-1984 and pre-2009 divorce decree or separation agreement. If the divorce decree or separation agreement went into effect after 1984 and before 2009, the noncustodial parent may be able to attach certain pages from the decree or agreement instead of Form 8332. The decree or agreement must state all three of the following.

1. The noncustodial parent can claim the child as a dependent without regard to any condition, such as payment of support.
2. The custodial parent will not claim the child as a dependent for the year.
3. The years for which the noncustodial parent, rather than the custodial parent, can claim the child as a dependent.

The noncustodial parent must attach all of the following pages of the decree or agreement to his or her tax return.

- The cover page (write the other parent's social security number on this page).
- The pages that include all of the information identified in items (1) through (3) above.
- The signature page with the other parent's signature and the date of the agreement.

Post-2008 divorce decree or separation agreement. Beginning with 2009 tax returns, the noncustodial parent can no longer attach pages from the decree or agreement instead of Form 8332 if the decree or agreement went into effect after 2008. The noncustodial parent will have to attach Form 8332 or a similar statement

signed by the custodial parent and whose only purpose is to release a claim to exemption.



The noncustodial parent must attach the required information even if it was filed with a return in an earlier year.

Revocation of release of claim to an exemption. For 2009, new rules allow the custodial parent to revoke a release of claim to exemption that the custodial parent previously released to the noncustodial parent on Form 8332 or a similar statement. If the custodial parent provides, or makes reasonable efforts to provide, the noncustodial parent with written notice of the revocation in 2009, the revocation can be effective no earlier than 2010. The custodial parent can use Part III of Form 8332 for this purpose and must attach a copy of the revocation to his or her return for each tax year he or she claims the child as a dependent as a result of the revocation.

Remarried parent. If you remarry, the support provided by your new spouse is treated as provided by you.

Parents who never married. This special rule for divorced or separated parents also applies to parents who never married and lived apart at all times during the last 6 months of the year.

Support Test (To Be a Qualifying Child)

To meet this test, the child cannot have provided more than half of his or her own support for the year.

This test is different from the support test to be a qualifying relative, which is described later. However, to see what is or is not support, see *Support Test (To Be a Qualifying Relative)*, later. If you are not sure whether a child provided more than half of his or her own support, you may find *Worksheet 1* helpful.

Scholarships. A scholarship received by a child who is a full-time student is not taken into account in determining whether the child provided more than half of his or her own support.

Joint Return Test (To Be a Qualifying Child)

To meet this test, the child cannot file a joint return for the year.

Exception. An exception to the joint return test applies if your child and his or her spouse file a joint return merely as a claim for refund.

Example 1. You supported your 18-year-old daughter, and she lived with you all year while her husband was in the Armed Forces. The couple files a joint return. Because your daughter and her husband file a joint return, she is not your qualifying child.

Example 2. Your 18-year-old son and his 17-year-old wife had \$800 of interest income and no other income. Neither is required to file a tax return. Taxes were taken out of their interest income due to backup withholding so they file a joint return only to get a refund of the withheld

taxes. The exception to the joint return test applies, so your son may be your qualifying child if all the other tests are met.

Example 3. The facts are the same as in *Example 2* except your son had \$2,000 of wages and no interest income or backup withholding. No taxes were taken out of his pay and he and his wife are not required to file a tax return, but they file a joint return to claim a making work pay credit of \$124 and get a refund of that amount. They file the return to get the making work pay credit, so they are not filing it only as a claim for refund. The exception to the joint return test does not apply, so your son is not your qualifying child.

Special Test for Qualifying Child of More Than One Person

TIP If your qualifying child is not a qualifying child of anyone else, this test does not apply to you and you do not need to read about it. This is also true if your qualifying child is not a qualifying child of anyone else except your spouse with whom you file a joint return.

CAUTION If a child is treated as the qualifying child of the noncustodial parent under the rules for children of divorced or separated parents or parents who live apart, described earlier, see *Applying this special test to divorced or separated parents or parents who live apart, later*.

Sometimes, a child meets the relationship, age, residency, support, and joint return tests to be a qualifying child of more than one person. Although the child is a qualifying child of each of these persons, only one person can actually treat the child as a qualifying child. To meet this special test, you must be the person who can treat the child as a qualifying child. Only that person can treat the child as a qualifying child to take all of the following tax benefits (provided the person is eligible for each benefit).

- The exemption for the child.
- The child tax credit.
- Head of household filing status.
- The credit for child and dependent care expenses.
- The exclusion from income for dependent care benefits.
- The earned income credit.

The other person cannot take any of these benefits based on this qualifying child. In other words, you and the other person cannot agree to divide these tax benefits between you. The other person cannot take any of these benefits unless he or she has a different qualifying child.

Tiebreaker rules. To determine which person can treat the child as a qualifying child to claim these six tax benefits, the following tiebreaker rules apply.

- If only one of the persons is the child's parent, the child is treated as the qualifying child of the parent.